

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA**

Ernest E. Pickett, a/k/a Ernest Eugens)	
Pickett,)	No. 4:14-cv-01193-RMG
)	
Plaintiff,)	ORDER
)	
vs.)	
)	
Jeannette W. McBride, Clerk of Court,)	
Richland County,)	
)	
Defendant.)	
_____)	

This matter comes before the Court on the Report and Recommendation (R & R) of the Magistrate Judge (Dkt. No. 17), recommending that the Court dismiss this action without prejudice for lack of jurisdiction. Plaintiff did not file objections to the R & R. For the reasons stated below, the Court **ADOPTS** the R & R in full. Accordingly, this action is **DISMISSED WITHOUT PREJUDICE**.

I. Legal Standard

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). This Court is charged with making a de novo determination of those portions of the R & R to which objection is made. *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting 28 U.S.C. § 636(b)(1)); accord Fed. R. Civ. P. 72(b). Here, however, because no objections were made, this Court “must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Id.* (quoting Fed.

R. Civ. P 72 advisory committee note). Moreover, in the absence of specific objections to the R & R, the Court need not give any explanation for adopting the Magistrate Judge's analysis and recommendation. *See Camby v. Davis*, 718 F.2d 198, 199-200 (4th Cir. 1983).

Pro se complaints are construed liberally to allow the development of meritorious claims. However, the requirement of a liberal construction does not mean that the Court can ignore a plaintiff's clear failure to allege facts that set forth a cognizable claim. *See Well v. Dep't of Soc. Servs. for City of Baltimore*, 901 F.2d 387, 391 (4th Cir. 1990) ("The special judicial solicitude with which a district court should view *pro se* complaints does not transform the court into an advocate."). Furthermore, the Court must dismiss an *in forma pauperis* action *sua sponte* if the claim is "frivolous or malicious," "fails to state a claim on which relief may be granted," or "seeks monetary relief against a defendant who is immune from such relief." 28 U.S.C. § 1915(e)(2)(B); *Neitzke v. Williams*, 490 U.S. 319, 324-25 (1989).

II. Discussion

The Court has carefully reviewed the Complaint and the R & R, and concludes that the Magistrate Judge correctly applied the relevant law to the operative facts in this matter. Plaintiff essentially seeks a writ of mandamus compelling the Clerk of the Richland County Court to enter default judgment in a state court case. (*See* Dkt. No. 1). However, this Court lacks jurisdiction to enter a writ against a state court employee. *See, e.g., Gurley v. Sup. Ct. of Mecklenburg Cty.*, 411 F.2d 586, 587 (4th Cir. 1969) (holding District Court was without jurisdiction to issue a writ to state court). Thus, the action must be dismissed for lack of jurisdiction.

Therefore, the Court **ADOPTS** in full the Magistrate Judge's Report and

Recommendation (Dkt. No. 17) as the order of this Court. Accordingly, this action is

DISMISSED WITHOUT PREJUDICE for lack of subject matter jurisdiction.

AND IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'R. M. Gergel', is written over a horizontal line.

Richard Mark Gergel
United States District Judge

July 22, 2014
Charleston, South Carolina